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File Number: 0870450-00014

MEMO ENDORSED

October 2, 2020

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VIA ECF

The Honorable Valerie E. Caproni
Thurgood Marshall United States Courthouse
Courtroom 443
40 Foley Square
New York, NY 10007

USDC SDNY
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Re: Perks v. TD Bank, N.A., No. 18-CV-11176 (VEC)

Dear Judge Caproni:

Defendant TD Bank, N.A. and Plaintiffs Mary Jennifer Perks and Maria Navarro-Reyes (collectively, the "Parties") write jointly to request a brief stay of current pretrial deadlines pending private mediation of Plaintiffs' claims, which the Parties have scheduled on November 20, 2020 before Eric D. Green, a well-respected neutral with significant national experience in resolving class actions.

For the past several months, Plaintiffs and Defendant TD Bank have been engaged in ongoing discovery in this action, and have made progress in exchanging documents and data, written discovery and depositions. Specifically, Defendant has produced certain putative class-wide transactional data; Defendant has begun its ESI production, having already produced nearly 20,000 pages of documents; Plaintiffs have taken the first part of a Rule 30(b)(6) deposition, with three further depositions scheduled in October, including the remainder of the Rule 30(b)(6) deposition; and Defendant has taken the deposition of Plaintiff Mary Perks, with the deposition of Plaintiff Navarro-Reyes scheduled in October.

According to the Court's April 17, 2020 Civil Case Management Plan and Scheduling Order, the current fact discovery deadline is October 19, 2020, the Parties pretrial conference is scheduled for October 23, 2020, and expert discovery related to class certification is set to be completed by December 3, 2020. On October 1, the Court ordered the Parties to meet and confer by October 8 regarding an extension to the current discovery deadlines to allow for the completion of discovery. (Dkt. No. 81.)

The Parties believe that a mediation at this point in the proceedings will allow the Parties to explore effectively whether a negotiated resolution is possible, whereas it may be less likely to be successful as the case proceeds further towards summary judgment and class certification. However, in a class action of this size, preparing for mediation is itself a significant undertaking that will require a time-consuming analysis of a large amount of transactional data—by both Parties' experts—and the submission of detailed mediation briefs. Therefore, the Parties believe

that a stay is necessary now to allow the Parties to focus their resources on preparation for the mediation. The Parties do not seek to delay this case and will continue to complete document productions notwithstanding the proposed stay, including Defendant's ESI production, which Defendant anticipates completing in October.

Within two weeks of the November 20 mediation, the Parties will inform the Court as to whether mediation was successful. If the case has not been resolved at that time, the Parties agree to propose new case deadlines to address promptly any remaining fact discovery, as well as expert discovery, class certification, and dispositive motion deadlines.

Thank you very much for your consideration.

Respectfully submitted,

/s/ Danielle N. Oakley

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Application GRANTED. The discovery deadlines and the October 23, 2020 pretrial conference are adjourned *sine die*. Not later than **December 4, 2020**, the parties must file a joint letter updating the Court on the outcome of mediation.

SO ORDERED.

 10/2/2020

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE